

# **IRAQ PROPERTY CLAIMS COMMISSION**

## **SECTION ONE**

### **Establishment**

#### **Article One**

This statute hereby establishes the Iraq Property Claims Commission (the "IPCC"), which shall resolve real property claims in a fair and judicious manner. The IPCC shall encourage the voluntary resolution of claims.

## **SECTION TWO**

### **Organization**

#### **Article Two**

The IPCC shall consist of the following structures established by the Governing Council:

1. An Appellate Division, composed of judges and established as a separate chamber of the Iraqi Court of Cassation;
2. Regional commissions established in each governorate in Iraq. The Appellate Division may establish more than one regional commission in a governorate.

#### **Article Three**

A. The Appellate Division of the IPCC shall be composed of five judges who have experience in adjudicating property disputes, may be retired or serving judges, and are to be appointed by the Council of Judges.

B. Each Regional Commission (the "Regional Commission") shall be comprised of (i) a judge, appointed by the Council of Judges, who shall preside, as chairman; (ii) the Director of the Office of Property Registration in the Governorate, or a representative; and (iii) the Director of State Property of such Governorate, or a representative. The Regional Commission may also request the assistance of persons who are experts on the subject of the claim.

#### **Article Four**

- A. Each Regional Commission and the Appellate Division shall have a secretariat to assist in its administration.
- B. The Governing Council shall ensure that the IPCC has the necessary funds to employ a secretariat and that the Regional Commissions find an appropriate place to operate in the capital of the relevant Governorate.

## **SECTION THREE**

### **Procedures**

#### **Article Five**

- A. The IPCC shall prepare a specialized claim form for purposes of filing claims.
- B. The process of adjudicating claims filed with the IPCC shall commence with the claimant(s), or his representative filing a claim form. The Parties shall submit the claim to the Regional Commission where the property is located.

#### **Article Six**

- A. After receipt of a properly completed form, the secretariat of the relevant Regional Commission shall serve notice of the claim on interested parties, be that a natural or juridical person, in accordance with the Guidelines and Instructions issued by the Governing Council.
- B. Following receipt of notice of a claim, the Regional Commission shall open a claim file and record the claim in the intake register in the order received.
- C. The secretariat shall verify the claim and authenticate the identity of the parties, prior to submitting the file to the Regional Commission.
- D. The Regional Commission is entitled to request the assistance of other governmental and non-governmental parties for purposes of valuation of interests and related matters.
- E. The Regional Commission shall issue its decision with respect to the claim and the secretariat shall be responsible for notifying the parties of the Commission's decision.

#### **Article Seven**

- A. An appeal of a decision of the Regional Commission must be filed with the Appellate Division within 30 days.
- B. Orders issued by the Regional Commission shall be final and conclusive and can be implemented immediately, unless appealed within 30 days.
- C. A decision of the Regional Commission will be enforceable when (i) a final decision by the Appellate Division is rendered or (ii) the requisite period for filing an appeal has passed.
- D. The final order shall be issued to all relevant parties and the appropriate Office of Property Registration for enforcement.

- E. If the property in question is occupied, possessed or used by the non-prevailing party, and such party has no other property, then the non-prevailing party shall be granted a reasonable period of time to evacuate the premises. The secretariat shall also inform the displaced person(s) of the availability of any services for assistance.

## **SECTION FOUR**

### **General Principles**

#### **Article Eight**

The IPCC shall comply with the following principles when resolving property claims. The Governing Council shall issue more detailed provisions regarding the process in the Guidelines and Instructions.

- A. Any properties that were confiscated or seized, or on which liens were placed by the former government (not in the ordinary course of commercial business), but with title remaining in the name of the original owner, shall be returned to the original owner.
- B. Any properties that were confiscated or seized, the titles of which were transferred to the Government of Iraq or an instrumentality thereof, and that were not sold to a third party, shall be returned to the original owner.
- C. Any properties confiscated by the government that were used as mosques, other places of worship, religious schools, charities, or were associated with such uses, shall be returned to the appropriate *waqfs* (religious endowments) connected to such uses or to the appropriate holders of title to such properties prior to their confiscation.
- D. After ensuring appropriate due process of law, any property the title to which is in the name of senior members of the Iraqi Ba'athist Government shall be returned to the rightful owners, if it is established that such properties were improperly acquired.
- E. If a property was confiscated and subsequently sold to a buyer (the "First Buyer"), and (i) title remains in the name of the First Buyer and (ii) no improvements were made to the property, then title to the property will be transferred back to the original owner and the First Buyer would not be entitled to compensation from the original owner.
- F. If the property was an unimproved property (that is, a property not built upon) when confiscated or otherwise seized, and then subsequently sold to the First Buyer, and the First Buyer has improved the property by building upon it, then the original owner would be entitled to either (i) having title transferred

to him, provided that he pays the First Buyer the value of the improvements on the date such improvements were made or (ii) being paid appropriate compensation for the property (as an unimproved property) on the date of the passing of this statute.

- G. If the property was sold to the First Buyer, who subsequently acquired an adjoining property from the state, then title to both the original property and the adjoining property shall be transferred to the original owner, provided that such original owner pays the First Buyer the amount that such First Buyer paid for the adjoining property.
- H. If the property has a building on it and then was sold to the First Buyer, who subsequently demolished the original building and built a new building on it, then the original owner of the property may (i) request that title be transferred to him, after paying for the new building (valued on the day it was built) less the value of the old demolished building (valued on the date of the passing of this statute), or (ii) may request that the First Buyer acquire the property, including the demolished building, valued on the date of the passing of this statute (less any amounts paid by the First Buyer to the Government).
- I. If the property was subsequently sold by the First Buyer to other buyers, then the original owner could either (i) request that title be transferred to him or (ii) request compensation for the value of the property valued at the date of the passing of this statute. If the original owner chooses option (i) above, then the final buyer would be entitled to compensation for the value of the property valued at the date of passing of this law.
- J. If the property was granted as a security interest for a loan to the First Buyer and therefore had a lien on it, then title to the property would be transferred back to the original owner free and clear of any liens and the lender would have a claim against the First Buyer.
- K. If the property was unimproved and a building was built on it by the First Buyer, and a lien was placed on the property by a lender, then any amounts due to the First Buyer by the original owner (pursuant to paragraph F above) would be paid by the original owner to the lender to fully or partially satisfy the loan.
- L. If the property was confiscated and sold in a public auction and was purchased by either the original owner or his heirs, then they will be entitled to compensation from the state in an amount equivalent to the purchase price.
- M. Any other relevant situation shall be addressed consistent with these provisions.

## **SECTION FIVE**

### **Other Matters**

#### **Article Nine**

This statute applies to claims arising between July 17, 1968 and April 9, 2003 involving immovable property, assets affixed to immovable property, easements, or servitudes that were: (i) confiscated or seized for reasons other than land reform; or (ii) expropriated for reasons other than lawfully used eminent domain, or as a result of opposition to the Ba'athist Government of Iraq, or as a result of ethnicity, religion, sect of the owners, or for purposes of ethnic cleansing; or (iii) acquired for less than appropriate value by the Ba'athist Government of Iraq; or (iv) property otherwise affected.

#### **Article Ten**

- A. Newly introduced inhabitants of residential property in areas that were subject to the policy of ethnic cleansing (i) can be resettled; (ii) can receive compensation from the state; (iii) can receive new land from the state near their residence in the governorate from which they came; and (iv) can receive cost of moving to such area.
- B. The Ministry of Displacement and Migration shall be responsible for administering this policy.

#### **Article Eleven**

- A. Claims must be filed by December 31, 2004. Any claims filed with the IPCC after such date will not be accepted.
- B. Any claims with respect to properties within the jurisdiction of this Statute but filed subsequently to December 31, 2004 can be referred to the Iraqi Court system, which shall apply the principles included in this Statute. This provision is not available to any claimant who has already filed a claim with respect to the same property with the IPCC.

#### **Article Twelve**

Any provisions in resolutions or orders or laws contradicting this statute are hereby suspended.

#### **Article Thirteen**

All ministers are required to implement this law.

#### **Article Fourteen**

The Governing Council shall issue Guidelines and Instructions that will regulate the procedures to be followed by the IPCC.

#### **Article Fifteen**

The Governing Council means the Iraqi Governing Council established on July 13, 2003. The authority of the Governing Council for purposes of this Statute will transfer to the Successor Government.

#### **Article Sixteen**

Transfers of real property pursuant to this statute shall not be subject to income tax, a tax on a transfer of real property, or any other tax or stamp duty.

#### **Article Seventeen**

This Statute will become effective on January 15, 2004.